

REMARKS

The above-captioned patent application has been amended and reexamination and reconsideration are respectfully requested under the provisions of 37 C.F.R. §1.116. Claims 1, 2, 4-17 and 19-43 are pending. Claims 1, 2, 4-17 and 19-43 are rejected by the Examiner.

The Examiner rejected claim 42 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner stated that the claim recites fields that are not interrelated as part of the method.

Applicant respectfully disagrees. Claim 41 calls for "the common format is a market event object format." Claim 42 expands on what the market event object format can be. Accordingly, claim 42 is proper under 35 U.S.C. §112, second paragraph.

The Examiner rejected claims 43 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner stated that the claim recites merely a data structure that is considered nonfunctional descriptive material.

Applicant respectfully disagrees. The Court of Appeals for the Federal Circuit (CAFC) has ruled that data structures are patentable in In re Lowry, 32 F. 3rd 1579; 32 U.S.P.Q. 2d 1031 (Fed. Cir. 1994); rehearing denied and in banc suggestion declined December 19, 1994, reported at 1994 U.S. App. LEXIS 36805. Accordingly, applicant's claim 43 is statutory subject matter under 35 U.S.C. §101.

The Examiner rejected claims 1-2, 4-17 and 19-43 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,864,827 (Wilson) in view of U.S. Patent 5,987,432 (Zusman), U.S. Patent 6,016,107 (Kampe) and U.S. Patent 6,321,212 (Lange).

Applicant has amended claims 1, 9, 16, 28 and 38.

Applicant submits that Wilson, Zusman, Kampe and Lange fail to disclose or suggest the invention as claimed in 1-2, 4-17 and 19-43.

For example, claim 1, as amended, calls for "...translating a portion of the received messages into market event messages having a common format defined by a market event object holding quote information, market participant information and timing information..." This same

limitation is contained in claim 16 ("translate the received messages into market event messages having a common format defined by a market event object holding quote information, market participant information and timing information"), claim 28 ("translate the received messages into market event messages having a common format defined by a market event object holding quote information, market participant information and timing information"), and claim 38 ("a translator object to translate the NQDS message into a common format defined by a market event object holding quote information, market participant information and timing information").

Amended claims 1, 16, 28 and 38 distinguish from the cited references since the references fail to teach or suggest translate the received messages into market event messages having a common format defined by a market event object holding quote information, market participant information and timing information. More specifically, a market event object holding quote information, market participant information and timing information is totally absent from the cited references. Accordingly, claims 1, 16, 28 and 38 are not made obvious by Wilson, Zusman, Kampe and Lange, whether separately or in combination.

Claims 43 distinguishes from the cited references since the references fail to teach or suggest a data structure having a common format for a market event message including a time stamp field, a message time field, a market session data field, a line field, a feed field, a feed sequence number field, message type field and an original identification field. Accordingly, claim 43 is not made obvious by Wilson, Zusman, Kampe and Lange, whether separately or in combination.

The Examiner rejected claims 38 and 41 under 35. U.S.C. §103(a) as being unpatentable over Wilson in view of Zusman, Kampe and U.S. Patent 4,433,377 (Eustis).

Applicant's claim 38 calls for "... a translator object to translate the NQDS message into a common format defined by a market event object holding quote information, market participant information and timing information." Claims 38 distinguishes from the cited references since the references fail to teach or suggest a translator object to translate the NQDS message into a common format defined by a market event object holding quote information, market participant information and timing information. In fact, a common format defined by a market event object holding quote information, market participant information and timing information is totally

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absent from the cited references. Accordingly, claim 38 is not made obvious by Wilson in view of Zusman, Kampe and Eustis.